

EXHIBIT 1

-----Original Message-----

From: Mary Catherine Roper [mailto:Mproper@ACLUPA.ORG]

Sent: Monday, March 07, 2005 11:04 AM

To: Smith, Beth

Cc: Viktoriya.Meyerov@dbr.com; Andrea.D'Ambra@dbr.com

Subject: Wolfe -- amendment of complaint to add request for injunctive relief

Beth, I would like to close the loop on whether you will consent to our amendment of the complaint to add a request for injunctive relief to the Ex Post Facto and First Amendment retaliation claims.

As you requested, I have read the published district court decisions since Winklespect that consider Ex Post Facto claims. I have read a dozen decisions and have not seen a single decision that supports your position that there can be no claim for injunctive relief. In every single decision that I reviewed, although the court noted that the Parole Board had had the benefit of the Supreme Court's instruction in Winklespect, the court also reviewed the facts to determine whether the Parole Board in fact relied unduly on public safety considerations. The clear implication of that is that if the court had concluded that the Board had performed its review improperly, it would have granted some relief. In one case, the district court in fact remanded the case to the Parole Board for reconsideration in light of all of the appropriate factors.

Jessica Wolfe is entitled to the same factual review. And, if the facts reveal that the Parole Board relied exclusively on public safety considerations, she will be entitled to an order directing the Board to consider her request for parole under the appropriate standard. Moreover, as we discussed before, if she proves her claim of First Amendment retaliation, she will be entitled to a order directing the retaliation/harassment to cease. Please let me know as soon as possible whether you will consent to the amendment of the complaint.

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